

# ZONING BOARD OF APPEALS MEETING MINUTES

**Thursday, January 28, 2021**

---

(Posted in accordance with the provisions of MGL Ch. 39, Sec. 23A, as amended)

**7:00 p.m.**

**City Hall Auditorium**

**62 Friend Street**

**Amesbury, MA 01913**

**Attendance:** Sharon McDermot (Chair), Donna Collins, David Haraske, Michael McCarthy, Matt Vincent

**Also in attendance:** Recording Secretary Janice Valverde

---

**Chairwoman Sharon McDermot** calls the meeting to order at 7:00 p.m.

Chair announces that the agenda includes the **minutes** of the January 7, 2021 meeting and two **Public Hearings**.

**Robin Cohn** is seeking a **SPECIAL PERMIT/FINDING** under the Amesbury Zoning Bylaw, Section XI.K.1, to convert a single-family house to a two-family house. The property is located at **27 River Street**, Amesbury, MA in an R8 zoning district, (map 66, lot 12) according to the Assessors database.

**SandE Homes, LLC** is seeking a **SPECIAL PERMIT/FINDING** under the Amesbury Zoning Bylaw, Section XI Paragraph B, to modify, alter, and extend pre-existing non-conforming structure. The property is located at **10 Garfield Street**, Amesbury, MA in an R8 zoning district, (map 52, lot 83) according to the Assessors database.

## **ADMINISTRATIVE**

**Chair McDermot** asks if everyone has had a chance to review the minutes of January 7, 2021 and if there are any comments, concerns or questions. There are none. She asks if there is a motion to accept the minutes.

**Matt Vincent** moves to approve as written the minutes of the Zoning Board of Appeals meeting of January 7, 2021.

**Michael McCarthy** seconds the motion.

**The motion passes unanimously.**

## PUBLIC HEARINGS

Robin Cohn is seeking a SPECIAL PERMIT/FINDING under the Amesbury Zoning Bylaw, Section XI.K.1, to convert a single-family house to a two-family house. The property is located at 27 River Street, Amesbury, MA in an R8 zoning district, (map 66, lot 12) according to the Assessors database..

**Chair McDermot** invites Robin Cohn to the podium to discuss her application.

**Cohn** says she moved to Amesbury on March 2, 2020. She had a roommate at the time, but in September 2020 the roommate had to move. When she purchased the home, Cohn did not anticipate the Covid pandemic. Since first roommate left she has not felt safe with another roommate moving in. She believes the solution is to create a separate rental apartment, and that the property is conducive to it for several reasons:

- It has two egresses, front and back.
- It has plenty of land. She recently paved over an area to create a “real driveway.”
- The property was in the past two-family. Two large families had lived there.
- She can add a kitchen upstairs, on the second floor, where she will live, and the first floor will become an apartment.
- There are several other multi-family homes with in-law apartments on River Street.
- Cohn believes there would be no objection by anyone in the neighborhood since there are several two-family houses on the street.

**Chair McDermot** asks if any board members have questions.

**Matt Vincent** notes an issue that can be corrected on the application; it says there is 10 to 15 feet of frontage, which is incorrect. He said the frontage is 120 feet, and the front setback from the street is 10 to 15 feet.

**McDermot** agrees this is not a problem. It is easily corrected.

**Cohn** says she was confused about the front setback versus frontage, and she agrees that the frontage is 120 feet, and the front setback is between 10 and 15 feet.

**Michael McCarthy** asks if adding the kitchen upstairs would be the only interior alteration to the property.

**Cohn** replies that she also intends to renovate the first floor existing bathroom because it has not been renovated in many years and is not attractive.

**Matt Vincent** asks if the driveway can now accommodate three cars off street.

**Cohn** replies that there is plenty of parking off street and on the street.

**Chair McDermot** asks if there are any further questions from the board or from the audience, or if there is anyone in audience to speak for or against the application.

Seeing as there are none, she asks if there is a motion to close the hearing and discuss.

**Michael McCarthy** moves to close the hearing.

**Dave Haraske** seconds the motion.

**The motion passes unanimously.**

**Chair McDermot** asks if there is any discussion. She notes that there will be a kitchen added on the second floor.

**Haraske** says he drove by the property earlier in the day.

All agree it is a straightforward matter.

**Chair McDermot** asks the following questions in the summary of findings.

1. Currently exists in Table of Uses? Board unanimously replies **“yes.”**
2. Is essential/desirable to public convenience/welfare? Board unanimously replies **“yes.”**
3. Will not create undue traffic/impeded pedestrian safety? Board unanimously replies **“will not.”**
4. Will not overload public systems? Board unanimously replies **“will not.”**
5. Special condition (Section XI) satisfied? Board unanimously replies **“yes.”**

**Donna Collins** reads the special conditions for Section XI.KI: Residential Conversions

In the R-8 and R-20 Zoning Districts a special permit may be granted by the Board of Appeals for the conversion of one-family dwellings into two-family dwellings and of two-family into three-family dwellings in accordance with the following provisions:

1. In no instance shall the lot be less than 12,000 square feet.
2. The minimum lot frontage be at least 80 feet in the R-8 zone, and not less than the required minimum in all other zones.
3. There be at least a minimum off-street parking for three (3) vehicles.
4. All other dimensional requirements of the zoning district on which the conversion is proposed are met.
5. The maximum number of dwelling units allowed in any previously existing one-family dwelling shall be two, and two-family dwelling shall be three.
6. In instances where the Board of Appeals is requested to permit three (3) dwelling units in a residential structure the Board of Appeals shall require a Site Plan that indicates off-street parking for at least five (5) vehicles; and said plan shall indicate that no designated off-street parking spaces are located in the required front yard setback of the zoning district in question.
7. For all conversions, all health and safety regulations of the City and the Commonwealth shall be met, and a report to that effect shall be obtained by the applicant from the Building Inspector.
8. No applicant for a residential conversion special permit shall apply to the Building Inspector for a building permit or occupancy permit, unless and until a special permit for conversions is approved by the Board of Appeals. Further, all building permits and occupancy permits issued by the Building Inspector shall be in conformance with the conditions, if any, stipulated in the special permit approval.
9. All proposals for conversions are subject to the special permit requirements and procedures set forth in Section X.J of this Bylaw.

**McDermot** says the applicant seems to have complied with all of these special conditions. All special conditions have been satisfied.

**McDermot** continues with the findings:

6. Will not impair character/health/welfare of the district? Board replies “**will not.**”
7. Will not create excess of use in the neighborhood? Board replies “**will not.**”

Having gone through the summary of findings, **McDermot** asks if there is a motion to approve or disapprove the application.

**Donna Collins** moves to approve the application.

**Matt Vincent** seconds the motion to approve.

**Board votes unanimously** in favor of approving the application.

Next on agenda is **SandE Homes, LLC** is seeking a **SPECIAL PERMIT/FINDING** under the Amesbury Zoning Bylaw, Section XI Paragraph B, to modify, alter, and extend pre-existing non-conforming structure. The property is located at **10 Garfield Street**, Amesbury, MA in an R8 zoning district, (map 52, lot 83) according to the Assessors database.

**Sean Mindes** introduces himself. He and his wife are owners of SandE Homes. They build and restore homes for the purpose of resale. He says they purchased this property in order to rehab and resell it, and are seeking a special permit to extend a nonconforming structure. They want to add a 22’ x 22’ garage to front of house, and a 3’ X 30’ farmers porch to the front of the house.

**Chair McDermot** asks if there are any questions from the board?

**Matt Vincent** says Board received a letter concerning work that is already going on; he has viewed the property and noticed that construction is already going on.

**Mindes** replies that there is interior work underway and roof repair; that work is already permitted, but the work for which he is seeking a special permit has not commenced.

**Matt Vincent** confirms this and asks for Mindes to “take the board through” the plan of the existing property that is included in the application package.

**Mindes** says 10 Garfield was at one time attached to 12 Garfield, but it is no longer attached. The properties are separated by 6 feet. They were connected by a garage.

**Matt Vincent** confirms that they are now two separate properties.

**Mindes** states that he is not the owner of #12 Garfield, only owns #10 Garfield. Owner of #12 gave permission to separate, said they were very happy to do so.

**Dave Haraske** asks about any progress on the proposed garage.

**Mindes** says he has not done any exterior construction as he is hopefully awaiting the board’s approval.

**Matt Vincent** asks for clarification about the space where the garage is proposed to be built.

**Mindes** says they cleared a portion of the driveway away in front of the house. The original driveway was approximately 50' X 24' and it is now approximately 24' X 23'. Space where existing portion of driveway was cleared is where the new garage will sit.

**Michael McCarthy** asks about square footage goal of the final project as proposed.

**Mindes** says property is roughly 50 X 50. The living space is 2,400 square feet all on one floor, with four bedrooms and 2.5 baths. As a result of repairing the roof, there is quite a bit of additional usable space on the second floor, but they finished only 300 square feet of that space, which Mindes says could be a home office or similar use.

**Chair McDermot** asks if the garage will be one story. **Mindes** replies that it will be one story with "nothing above."

**Donna Collins** asks about the height of the garage roof, as the information on the application is not entirely clear.

**Mindes** clarifies that the height of the garage roof will be considerably higher than the original since that original roof was a flat roof, and it was leaking into the building to the point of almost collapsing, but the new roof has a pitched roof. The existing height was a 12-foot flat roof; the new one is a 28-foot-high gabled roof.

**McDermot** asks if there are other questions from the board. There are none. She reads an (email) letter into the record.

---

From: Sandy Clark (spclark2009@yahoo.com)  
Sent: Wednesday, January 13, 2021 12:18 PM  
To: Kaila Sauer  
Subject: 10 Garfield St. special permit

As an abutter I received a notice of the hearing on January 28. I live at 51 Whitehall, so not in close proximity exactly.

However, I'm wondering why the sudden request for a permit, since there has been ongoing construction down there since summer? It's clear that the once-eyesore building has been expanded to look more residential, so does this mean they didn't get a permit before they started?

I have no objections to the project.

---

**McDermot** says she thinks the applicant clarified this question. She asks if there anyone in the audience to speak for or against this application. She invites Dave Somes to the podium.

**Dave Somes** introduces himself. He lives at 100 High Street. I am directly "adjacent to this offset slightly from the property." He says stories have been floating around about whether the work is taking place without permits. He is not aware of any of the facts.

**Somes'** concern is the run-off from the roof of the garage which has been an ongoing problem. He states that there is hardly any space between the back of the garage and the lot line, and that in order for the workers to access the roof of the structure to repair it, they removed his arborvitae that was on the property line. Somes said that the prior flat roof has caused a great

deal of run off to his property, but now, with the new pitched roof, at least half the water is going to end up on his backyard.

**Haraske** asked for details about what the run-off situation has been in the past.

**Somes** says the runoff has been a problem for “as long as I’ve lived in the house,” for 19 years. After a 2004 house fire, Somes had a new garage built with a poured concrete floor and a space above. He said he “gone so far as to start building a berm” to alleviate the run-off problem originating with the flat roof.

**Somes** also said he is “very pleased” to see the properties at 10 and 12 Garfield separated and turned into a useful property.

**Haraske** asks how far Somes’ property is from the property line. **Somes** replies it is about 15 to 20 feet.

**Mindes** responds, saying he certainly understands and respects Somes’ concerns. He confirms that the property line is about two feet from the property line., and that the overhang of the old roof did extend almost the whole two feet. It notes that is was a flat roof but slightly pitched toward the back, so Somes’ property was getting all of the runoff from entire 50 feet wide roof.

Now the pitched gabled roof will send 50% of the water to the back and 50% to the front. Further, Mindes has installed an 8” solid perimeter drain on the left side of the house leading to the front where there are two 300-gallon dispersion tanks. He has also installed a 5” commercial gutter on the back of the house. Now, all the water will now go into the gutter, run into the drains, and into the tanks. There is far more likelihood that the front of the house would flood before the back of the house would, Mindes says.

**Mindes** apologizes for not speaking to Somes about the matter sooner, but noted that he had informed the other abutters on either side.

**Somes** returns to podium to thank Mindes and says he is fully in favor of seeing an essentially abandoned property turned into a functioning property. I do not want to be viewed as making a complaint, he says.

**Mindes** adds that the property had been abandoned for about ten years when he purchased it from the bank. The roof leaked substantially, there was significant amount of mold which has been removed, and there were human feces and hypodermic needles. The abutters and my neighbors feel that I am doing something good for the street, I take pride in what we build and I am very concerned with the people who live nearby, Mindes says.

**Mark Irving** comes to the podium. He introduces himself, saying he lives at 104 High Street, and that he is also representing Dennis and Maureen Donahue who also live at 104 High Street. He says he is glad that the question of runoff was addressed since it was big concern for Dennis.

**Irving** asks, just to clarify, if I am facing the house, to the left side there will be drainage? To confirm, he asks if it will be a single family home. He also said he is glad that it is being renovated since it has been an eyesore.

**Matt Vincent** asks Mindes to clarify further for Irving.

**Mindes** explains that there was not sufficient space to install a drain in the back of the house. Therefore they installed the 5” commercial gutter on the back of the house, and the 8” solid perimeter drain on the left, leading to the 300-gallon dispersion tanks in the front. I do not ever see any issue with flooding unless it is an Act of God, Mindes says.

**McDermot** asks if there is a motion to close the hearing and discuss.

**Collins** moves to close the hearing and discuss the application.

**McCarthy** seconds the motion.

**Motion** passes unanimously.

**Matt Vince** said that it appears to be a reasonable project and that Mindes and his crew have thoughtfully addressed the drainage concerns of the neighbors.

**Haraske** asks if they should consider this as a single structure or two properties since they were originally attached, and if it should be handled as a finding or a special permit.

**Vincent** and **McDermot** agree that it is “workable” under a finding. The board unanimously agrees.

**McDermot** asks if the Board is ready to go through the summary of findings. They reply that they are. She asks:

1. Is there proof that it predates zoning? Board unanimously replies “yes.” It was built in 1953.

2. How is it nonconforming?

**Matt Vincent** replies that it is **nonconforming in area, in frontage, in front, left side, right side, rear, maximum building percentage area, and in minimum open space.** Board agrees.

3. More or less detrimental? Board unanimously agrees that it is **less detrimental.**

4. Does extension/alteration create a new nonconformity? Collins says it does create a front nonconformity since there existed a 45’ setback and it is now under 25’.

Collins says she is “OK with that.”

McDermot says she is, too. She asks the others.

The board unanimously agrees that it is OK.

**McDermot** asks if there is a motion to approve or disapprove the application.

**Collins** moves to approve the application.

**Vincent** seconds the motion to approve the application.

**Motion** to approve the application passes unanimously.

**McDermot** says the application is approved.

**McDermot** asks if there is a motion to adjourn the meeting.

**Vincent** moves to adjourn the meeting.

**Collins** seconds the motion.

**Motion** to adjourn passes unanimously

**McDermot** announces the meeting is adjourned at 7:40.